



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,971	06/09/2005	Yoshihiro Ohmiya	SAEG189.001APC	8735

20995 7590 06/20/2008
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

NOAKES, SUZANNE MARIE

ART UNIT	PAPER NUMBER
----------	--------------

1656

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

06/20/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10537971	6/9/05	OHMIYA ET AL.	SAEG189.001APC

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

SUZANNE M. NOAKES

ART UNIT	PAPER
----------	-------

1656	20080615-A
------	------------

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In the response filed on 02/08/08, Applicants canceled claims 1-15 and added new claims 22-26 to be commensurate in scope with newly amended claims 16 and 17. Claims 16 and 17 have been subject to examination on the merits (see Office action 9/10/07).

It is noted that the amendments to the elected and examined claims (16 and 17; and the addition of new claims 22-26 which are dependent upon said claims), filed 02/08/08, are now drawn to a non-elected invention, i.e., the invention of Group IV. Specifically, Applicants are referred to the restriction requirement of 05/18/07, wherein Group IV was directed to methods for measuring the processing ability of a cell by using DNA and Group III, claims 16 and 17, drawn to methods for measuring the processing ability of a cell by using the protein. The two Groups were established as independent and distinct inventions that have no corresponding special technical feature. Applicants, in the response filed 06/15/07, elected Group III, claims 16 and 17 and the methods utilizing the protein. Applicants did not traverse the restriction requirement. Thus, the amendments as filed on the 02/08/08 currently are drawn to withdrawn subject matter and there currently are NO claims pending drawn to the elected subject matter of Group III. Thus, Applicants have amended the claims to be drawn to a non-elected invention (Group IV) and therefore, claims 16, 17 and 22-26 are withdrawn from further consideration by the examiner in accordance with 37 CFR 1.142(b), leaving NO claims pending which are drawn to the elected invention. It is emphasized that the restriction requirement was made Final in the Office action of 09/10/07. As such, the amendment filed on 02/08/08 is considered to be non-responsive.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne M. Noakes whose telephone number is 571-272-2924. The examiner can normally be reached Monday to Friday, 7:00 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr Bragdon can be reached at 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Suzanne M. Noakes/
Patent Examiner, Art Unit 1656